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authority, the claim will be forwarded, with a recommendation, to the Office of General Counsel, Central Office for their review.

(f) *Will appreciation or depreciation be considered?* Yes. Staff will consider appreciation or depreciation of lost or damaged property in settling a claim.

(g) *If my claim is denied or I am dissatisfied with a settlement offer, what are my options?* If your claim is denied or you are dissatisfied with a settlement offer, you may request, in writing, that the Bureau of Prisons reconsider your claim in the administrative stage. You should include additional evidence of injury or loss to support your request for reconsideration. If you are dissatisfied with the final agency action, you may file suit in an appropriate U.S. District Court as no further administrative action is available.

(h) *What if I accept a settlement of my claim?* If you accept a settlement, you give up your right to bring a lawsuit against the United States or against any employee of the government whose action or lack of action gave rise to your claim.

(i) *How long will it take to get a response?* Generally, you will receive a decision regarding your claim within six months of when you properly file the claim. If you have not received a letter either proposing a settlement or denying your claim within six months after the date your claim was filed, you may assume your claim is denied. You may proceed to file a lawsuit in the appropriate U.S. District Court.

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AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

SOURCE: 44 FR 38249, June 29, 1979, unless otherwise noted.

Subparts A–B [Reserved]

Subpart C—Postsecondary Education Programs for Inmates

SOURCE: 68 FR 65171, Nov. 19, 2003, unless otherwise noted.

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§ 544.20 Purpose and scope.

The Bureau of Prisons offers inmates the opportunity under its postsecondary education program to participate in postsecondary education courses (courses for college credit other than those courses which pertain to occupational education programs) which have been determined to be appropriate in light of the institution's need for discipline, security, and good order. Participation in postsecondary education courses which are part of occupational education programs is governed by the provisions of the Bureau's occupational education program (see subpart F of this part).

§ 544.21 Procedures.

(a) The Warden or designee must appoint a postsecondary education coordinator (ordinarily an education staff member) for the institution. The postsecondary education coordinator is responsible for coordinating the institution's postsecondary education program.

(b) An inmate who wishes to participate in a postsecondary education course must apply through the postsecondary education coordinator. If the postsecondary education coordinator determines that the course is appropriate in light of the institution's need for discipline, security, and good order, the inmate may enroll provided that:

(1) The inmate meets eligibility requirements for the course which have been set by the course provider,

(2) The inmate is responsible for payment of any tuition either through personal funds, community resources, or scholarships available to the inmate, and

(3) The unit team determines that the course is appropriate for the inmate's apparent needs.

Subpart D—Inmate Recreation Programs

SOURCE: 58 FR 65850, Dec. 16, 1993, unless otherwise noted.

§ 544.30 Purpose and scope.

The Bureau of Prisons encourages inmates to make constructive use of leisure time and offers movies, games,

sports, social activities, arts and hobbycrafts, wellness and other group and individual activities.

§ 544.31 Definitions.

(a) *Leisure activities* are a wide range of activities in which inmates may participate when not performing assigned duties. Leisure activities include participation in organized and informal games, sports, physical fitness, table games, hobbycrafts, music programs, intramural activities, social and cultural organizations, movies, and stage shows. Religious activities, psychological services, and education classes are not included within this definition, except when they are used specifically to encourage knowledge, skills, and attitudes related to leisure activity involvement.

(b) *Organized activities* are those activities accounted for by registration or roster of individual participants, and occur at a scheduled time and place.

(c) *Art work* includes all paintings and sketches rendered in any of the usual media (oils, pastels, crayons, pencils, inks, and charcoal).

(d) *Hobbycraft activities* include ceramics, leatherwork, models, clay, mosaics, crochet, knitting, sculptures, woodworking, lapidary, and other forms consistent with institution guidelines.

(e) *Inmate wellness program activities* include screening, assessments, goal setting, fitness/nutrition prescriptions and counseling.

§ 544.32 Goals.

The Warden is to ensure, to the extent possible, that leisure activities are provided to meet social, physical, psychological, and overall wellness needs of inmates.

(a) Leisure activities are designed to attract inmate participation regardless of ethnic, racial, age, or sex difference, or handicap considerations, and to enhance the potential for post-release involvement.

(b) Leisure activities are designed to ensure that an inmate with the need has the opportunity to complete one or more activities (see 28 CFR 544.81).

§ 544.33 Movies.

If there is a program to show movies, the Supervisor of Education shall ensure that X-rated movies are not shown.

§ 544.34 Inmate running events.

Running events will ordinarily not exceed 10 kilometers or 6.2 miles. Appropriate medical staff and fluid supplies (e.g., water) should be available for all inmate running events.

§ 544.35 Art and hobbycraft.

(a) An inmate engaged in art or hobbycraft activities may obtain materials through:

- (1) The institution art program (if one exists);
- (2) The commissary sales unit;
- (3) Special purchase commissary orders, if the sales unit is unable to stock a sufficient amount of the needed materials; or
- (4) Other sources approved by the Warden.

(b) Each inmate shall identify completed art or hobbycraft products by showing the inmate's name and register number on the reverse side of the item.

(c) Completed or abandoned art or hobbycraft articles must be disposed of in one of the following ways:

- (1) Upon approval of the Warden, by giving the item to an authorized visitor. The quantity of items will be determined by the Warden.
- (2) By mailing the item to a verified relative or approved visitor at the inmate's expense.
- (3) By selling, through an institution art and hobbycraft sales program, if one exists, after the institution price committee has determined the sale price.
- (4) Other methods established by the Warden.

(d) *Restrictions.* Art and hobbycraft programs are intended for the personal enjoyment of an inmate and as an opportunity to learn a new leisure skill. They are not for the mass production of art and hobbycraft items by artists or to provide a means of supplementing an inmate's income.

(1) The Warden may restrict, for reasons of security and housekeeping, the size and quantity of all products made

in the art and hobbycraft program. Paintings mailed out of the institution must conform to both institution guidelines and postal regulations. If an inmate's art work or hobbycraft is on public display, the Warden may restrict the content of the work in accordance with community standards of decency.

(2) The Warden may set limits, in compliance with commissary guidelines, on the amount of money an inmate may spend on art or hobbycraft items or materials.

(3) The Warden may restrict for reasons of security, fire safety, and housekeeping, the use or possession of art and hobbycraft items or materials.

(4) Appropriate hobbycraft activities shall be encouraged in the inmate living areas. However, the Warden may limit hobbycraft projects in the cell/living areas to those which can be contained/stored in provided personal property containers. Exceptions may be made for such items as a painting where the size would prohibit placement in a locker. Hobbycraft items must be removed from the living area when completed unless they are approved as personal property.

(5) The Warden shall require the inmate to mail completed hobbycraft articles out of the institution at the inmate's expense, or to give them to an authorized visitor within 30 days of completion, or to dispose of them through approved sales. However, articles offered for sale must be sold within 90 days of completion, or must be given to an authorized visitor or mailed out of the institution at the inmate's expense.

(6) Where space and equipment are limited and demand is high, the Warden may set limits on the amount of time an inmate may use a hobbycraft facility, e.g., the Warden may limit an inmate's use of any workshop or classroom to six months to make room for new students. Hobbycraft participants may be rotated to allow for maximum utilization of the resources.

(7) Disciplinary action may be taken against inmates found with unauthorized hobbycraft materials in their possession. This action may include the removal of the inmate from the hobbycraft program.

Subpart E—Mandatory English-as-a-Second Language Program (ESL)

SOURCE: 59 FR 14724, Mar. 29, 1994, unless otherwise noted.

§ 544.40 Purpose and scope.

Pursuant to the Crime Control Act of 1990 (18 U.S.C. 3624(f)), limited English proficient inmates confined in Federal Bureau of Prisons institutions are required to attend an English-as-a-Second Language (ESL) program until they function at the equivalence of the eighth grade level in competency skills. Waivers to this requirement may be granted by the Warden in accordance with §§ 544.41 and 544.42.

§ 544.41 Applicability: Who must attend the ESL program.

(a) All Federal prisoners who have limited English proficiency skills shall attend an ESL program except:

- (1) Pretrial inmates;
- (2) Inmates committed for purpose of study and observation under the provisions of 18 U.S.C. 4205(c) or, effective November 1, 1987, 18 U.S.C. 3552(b);
- (3) Sentenced aliens with a deportation detainer;
- (4) Other inmates whom, for documented good cause, the Warden may excuse from attending the ESL program.

(b) Staff shall document in the inmate's education file the specific reasons for not requiring the inmate to participate in the ESL program.

§ 544.42 Procedures.

(a) The Warden at each federal institution shall ensure that inmates who at their initial classification are found to be limited English proficient are enrolled in the ESL program. Determination of limited English proficiency is made by staff on the basis of personal interviews and placement testing.

(b) An inmate who returns to the Federal Bureau of Prisons on a new sentence or as a parole violator, and who has not achieved or is unable to demonstrate verified achievement of the eighth grade level, must provide verification or enroll in the ESL pro-

gram until that inmate achieves such a grade or is granted a waiver for cause.

(c) The Warden or designee shall assign to an education staff member the responsibility to coordinate the institution's ESL program. The ESL coordinator or designee shall meet with the inmate for the purpose of enrolling the inmate in the ESL program. The ESL coordinator shall be responsible for the completion of the official ESL Program Record, and shall place it in the inmate's education file.

(d) Ordinarily, there will be no time limit for completion of the ESL mandatory program. However, after 240 instructional hours of continuous enrollment in an ESL program, excluding sick time, furloughs, and other excused absences from scheduled classes, the Warden shall have the authority to grant a waiver from further program participation. This waiver may be granted when it is determined that the inmate will not benefit from further instruction. Each exemption determination shall be made on an individual basis and shall be supported by documentation.

[59 FR 14724, Mar. 29, 1994, as amended at 62 FR 39916, July 24, 1997]

§ 544.43 Incentives.

The Warden or designee shall establish a system of incentives to encourage an inmate to meet the mandatory ESL program requirements.

§ 544.44 Disciplinary action.

As with any other mandatory programs, such as work assignments, staff may take disciplinary action against an inmate when that inmate refuses to enroll and participate in, or to meet the minimum requirements of the mandatory ESL program.

Subpart F—Occupational Education Programs

SOURCE: 68 FR 65170, Nov. 19, 2003, unless otherwise noted.

§ 544.50 Purpose and scope.

The Bureau of Prisons offers eligible inmates the opportunity under its occupational education programs to participate in occupational education

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courses for the purpose of obtaining marketable skills designed to enhance post-release employment opportunities.

§ 544.51 Procedures.

(a) *Eligibility.* All inmates are eligible to participate in an institution's occupational education program. An eligible inmate must apply through the inmate's unit team for placement consideration. The unit team will determine whether the occupational education course is appropriate for the inmate's apparent needs.

(b) *Special considerations for inmates under orders of deportation, exclusion, or removal:* (1) Generally, inmates under orders of deportation, exclusion, or removal may participate in an institution's occupational education program if Bureau resources permit after meeting the needs of other eligible inmates.

(2) Inmates under orders of deportation, exclusion, or removal who the Attorney General has determined cannot be removed from the United States because the designated country of removal will not accept the inmate's return are exempted from the limitation in paragraph (b)(1) of this section, and may participate in an institution's occupational education in the same manner as other eligible inmates.

§ 544.52 Levels of Occupational Education Programs.

Occupational education programs are offered at the certificate level and the classroom level. Each level may include the following types of training:

(a) *Exploratory Training.* Exploratory training is a study of occupations and industries for the purpose of providing the student with a general knowledge of the occupation and the world of work, rather than specific skill development.

(b) *Marketable Training.* Marketable training provides specific entry-level or advanced job skills. Marketable training may include "live work", that is, the training would result in a product or service produced by the inmate for actual use by the institution, FPI, another federal agency, or community service project.

(c) *Apprentice Training.* Apprentice training provides an inmate the oppor-

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tunity to participate in training which prepares the inmate for employment in various trades through structured apprenticeship programs approved at the state and national levels by the Bureau of Apprenticeship and Training, U.S. Department of Labor.

Subpart G [Reserved]

Subpart H—Literacy Program

SOURCE: 62 FR 50793, Sept. 26, 1997, unless otherwise noted.

§ 544.70 Purpose and scope.

Except as provided for in § 544.71, an inmate confined in a federal institution who does not have a verified General Educational Development (GED) credential or high school diploma is required to attend an adult literacy program for a minimum of 240 instructional hours or until a GED is achieved, whichever occurs first.

§ 544.71 Exceptions to required literacy program participation.

(a) The following inmates are not required to attend the literacy program:

(1) Pretrial inmates;

(2) Inmates committed for purpose of study and observation under the provisions of 18 U.S.C. 4205(c), 4241(d), or, effective November 1, 1987, 18 U.S.C. 3552(b);

(3) Sentenced deportable aliens;

(4) Inmates determined by staff to be temporarily unable to participate in the literacy program due to special circumstances beyond their control (e.g., due to a medical condition, transfer on writ, on a waiting list for initial placement). Such inmates, however, shall be required to participate when the special circumstances are no longer applicable.

(b) Inmates who have been determined (on the basis of formal diagnostic assessment) to have a documented emotional, mental, or physical individual impediment to learning shall not be required to complete the literacy program beyond those achievement levels indicated as realistic by the formal diagnostic assessment.

(c) Staff shall document in the inmate's education file the specific reasons for not requiring the inmate to

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participate in, or to complete, the literacy program.

§ 544.72 Incentives.

The Warden shall establish a system of incentives to encourage an inmate to obtain a GED credential.

§ 544.73 Program participation.

(a) The Warden or designee shall assign to an education staff member the responsibility to coordinate the institution's literacy program. Initially, staff shall meet with the inmate for the purpose of enrolling the inmate in the literacy program. Subsequently, staff shall formally interview each inmate involved in the literacy program when necessary for the purpose of determining a progress assignment. Staff shall place documentation of these interviews in the inmate's education file.

(b)(1) For the purposes of 18 U.S.C. 3624, an inmate subject to the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA) or the Prison Litigation Reform Act of 1995 (PLRA) shall be deemed to be making satisfactory progress toward earning a GED credential or high school diploma unless and until the inmate receives a progress assignment confirming that:

(i) The inmate refuses to enroll in the literacy program;

(ii) The inmate has been found to have committed a prohibited act that occurred in a literacy program during the last 240 instructional hours of the inmate's most recent enrollment in the literacy program; or

(iii) The inmate has withdrawn from the literacy program.

(2) When an inmate subject to VCCLEA or PLRA receives a progress assignment indicating that the inmate is not making satisfactory progress, the assignment shall be changed to indicate satisfactory progress only after the inmate is currently and continuously enrolled in a literacy program for a minimum of 240 instructional hours. Any further withdrawal or finding that the inmate has committed a prohibited act in a literacy program during the last 240 instructional hours of the inmate's most recent enrollment in the literacy program shall result in a progress assignment indicating that

the inmate is again not making satisfactory progress (see paragraphs (b)(1)(ii) and (iii) of this section).

(c) At the end of 240 instructional hours, excluding sick time, furloughs, or other absences from scheduled classes, the unit team during scheduled program review sessions shall meet with the inmate to encourage continued participation in the literacy program until the inmate earns a GED credential or high school diploma. At these meetings, the inmate may elect not to continue in the literacy program, and no disciplinary action will be taken. The inmate may not discontinue this program when participation is mandated by statute.

§ 544.74 Work assignment limitations.

These limitations on work assignment appointment and promotion apply to all inmates, including those exempted from required participation in the literacy program by § 544.71.

(a) *Appointment.* (1) An inmate who does not meet the literacy requirement may be assigned to a grade 4 position contingent upon the inmate's continued enrollment in the literacy program.

(2) An inmate ordinarily must show prior attainment of a GED credential or high school diploma in order to be considered for a commissary work assignment above minimum pay level, an institution work assignment above grade 4 compensation, or an industrial work assignment above grade four or in a non-graded incentive pay position.

(3) If labor force needs require, an inmate who does not meet the literacy requirement may be assigned to an industrial non-graded incentive pay position if the inmate is simultaneously enrolled in a literacy or related program. Withdrawal from the literacy program shall result in termination of the assignment. Local Federal Prison Industry (FPI) management may elect to retain the reassigned inmate in an hourly rated grade 4 position.

(b) *Promotion.* An inmate ordinarily must show prior attainment of a GED credential or high school diploma to be promoted above the minimum pay level or grade in a commissary work

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assignment, an institutional work assignment, or an industrial work assignment. An inmate already in an assignment above the minimum pay grade who had met prior literacy requirements when approved for promotion is eligible for further promotion under the prior standard. Such inmate, however, must meet the current standard if, due to demotion based upon a poor performance appraisal, he or she needs to reapply for a promotion.

(c) *Exceptions.* The Warden may, for good cause, exempt inmates on a case-by-case basis, from the literacy requirements for work assignment appointment and promotion. Staff shall document such exemption in the inmate's education file and central file.

§ 544.75 Disciplinary action.

As with other mandatory programs, such as work assignments, staff may take disciplinary action against an inmate lacking a GED credential or high school diploma if that inmate refuses to enroll in, and to complete, the mandatory 240 instructional hours of the literacy program.

Subpart I—Education, Training and Leisure-Time Program Standards

SOURCE: 58 FR 65852, Dec. 16, 1993, unless otherwise noted.

§ 544.80 Purpose and scope.

In consideration of inmate education, occupation, and leisure-time needs, the Bureau of Prisons affords inmates the opportunity to improve their knowledge and skills through academic, occupation and leisure-time activities. All institutions, except satellite camps, detention centers and metropolitan correctional centers, shall operate a full range of activities as outlined in this rule.

§ 544.81 Program goals.

The Warden shall ensure that an inmate with the need, capacity, and sufficient time to serve, has the opportunity to:

(a) Complete an Adult Literacy program leading to a General Educational Development (GED) certificate and/or high school diploma;

(b) Complete one or more levels of English-as-a-Second Language;

(c) Acquire or improve marketable skill through one or more programs of Occupation Education (OE);

(d) Complete one or more Postsecondary Education activities;

(e) Complete one or more Adult Continuing Education activities;

(f) Participate in one or more leisure, fitness, wellness or sport activities;

(g) Participate in a Release Preparation program; and

(h) Participate in Career Counseling. Staff shall encourage each inmate to accept the responsibility to identify any specific education needs, set personal goals, and select activities, programs and/or work experiences which will help to reach those goals.

[58 FR 65852, Dec. 16, 1993, as amended at 61 FR 47795, Sept. 10, 1996]

§ 544.82 General program characteristics.

(a) The Supervisor of Education shall assure that the following minimum criteria are met for the institution's education program set forth in § 544.81.

(1) There is a written curriculum which establishes measurable behavioral objectives and procedures.

(2) There are clear criteria which establish minimum expectations for program completion, as well as provisions for the assessment of student progress.

(3) There are provisions for periodic review of the relevancy and effectiveness of the program.

(4) Unless unusual circumstances (e.g., college credit courses) exist, all programs should allow for open entry and exit, at least on a monthly basis.

(5) The Supervisor of Education may establish other requirements necessary to assure that the stated goals of the program are achieved.

(b) Upon an inmate's completion of a program specified in § 544.81, staff may issue and/or review and file a certificate when it contributes to an inmate's future plans in such a way that it validates the inmate's education and training; supports the inmate's chances of securing employment; improves the inmate's acceptance for advanced education; or enhances the inmate's opportunity for success in any other activity

the inmate chooses to pursue. The certificate will confirm that the inmate has completed the requirements to receive a certificate that fits one or a combination of the following categories:

(1) Accredited certificates—high school diplomas and occupation training certificates approved or issued through local school districts, state departments of education, or other recognized accrediting educational organizations;

(2) Postsecondary certificates and transcripts—postsecondary degrees or course certificates approved or issued through a sponsoring accredited educational institution;

(3) General Educational Development tests—programs sponsored by the American Council on Education;

(4) Private certificates—outside agencies, private business and industry, other than those stated in paragraph (b)(1) of this section;

(5) Institutional certificates—approved general education, occupation training, recreation, adult continuing education and social education certificates, issued to an inmate who completes a program, and when the institution cannot provide a certificate as provided in paragraphs (b) (1) and (4) of this section; or

(6) Transcripts—issued to an inmate who completes general education programs, formal occupation training, on-the-job and apprentice training and work assignments. With the inmate's consent, transcripts may be sent to schools and colleges, business, industries and other agencies.

§ 544.83 Inmate tutors.

Institutions may establish an inmate tutor/aide program. Guidelines shall be developed regarding the training and supervision of inmate tutors/aides where such programs are available.

Subpart J [Reserved]

Subpart K—Inmate Library Services

§ 544.100 Purpose and scope.

The Bureau of Prisons provides inmates within each of its institutions

with library services necessary for educational, cultural, and leisure activity. The Warden shall ensure that the inmate library has a wide variety of reading materials. Library services shall ordinarily be available to all inmates daily, including evenings and weekends, except in detention facilities where service shall be scheduled as frequently as possible to ensure reasonable access.

[46 FR 24900, May 1, 1981]

§ 544.101 Procedures.

(a) The Warden shall assign a staff member (ordinarily the Supervisor of Education) responsibility for the inmate library.

(b) The inmate library shall offer an inmate a variety of reading materials, including, but not limited to, periodicals, newspapers, fiction, non-fiction, and reference books.

(c) Where the population of an institution includes inmates of foreign origin, staff shall attempt to provide reading materials in the inmates' language.

(d) Inmate library services shall be made available to inmates in special housing units.

(e) The Warden or designee may authorize the use of inmates as library assistants.

[46 FR 24900, May 1, 1981]

PART 545—WORK AND COMPENSATION

Subpart A [Reserved]

Subpart B—Inmate Financial Responsibility Program

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Subpart C—Inmate Work and Performance Pay Program

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